

### **REMARKS**

Reconsideration of the application as amended is respectfully requested. The specification has been amended to correct a typographical error as suggested by the Examiner. No new matter has been added by virtue of the amendment to the specification.

Claims 1 and 11 have been cancelled. Claims 2, 3, 12, and 13 have been amended to independent form. Claims 2-4, 12-17, 24 and 25 have been amended to clarify that the entire sequence set forth in the various SEQ ID NOs is included. Claims 4-6, 8-10, 14-18, 20, and 21 have been amended to correct the dependencies. Claims 6 and 18 have been amended to correct the antecedent basis, as suggested by the Examiner. Claims 21 and 24 have been amended to more particularly point out and distinctly claim the invention as embodied therein. No new matter has been added by virtue of the amendments to the claims.

### **Objections**

The objection to the typographical error in the specification has been obviated by the amendment to the specification.

An objection was lodged against claims 1, 21, and 24 for the recitation of the phrase "wherein the PM1 forward primer and the PM1 reverse primer are nested within the AHAS1 forward and reverse primers". Cancellation of claim 1 is believed to obviate the objection as applied thereto. Language addressing the objection has been incorporated into amended claims 2, 21, and 24.

Withdrawal of all objections is therefore respectfully requested.

### **Rejections under 35 U.S.C. § 112**

Claims 4, 5, and 14-17 stand rejected under § 112, second paragraph, as being indefinite in the recitation of "has a sequence as set forth in", the Examiner taking the position that use of the indefinite article is unclear. The amendments to claims 4, 5, and 14-17 are believed to obviate this rejection, and its withdrawal is respectfully requested.

Claim 6 stands rejected under § 112, second paragraph, as being indefinite in antecedent basis in the recitation of step (c), and claims 18 and 19 stand rejected as being

indefinite in the recitation of steps (c) and (d). The amendments to claims 6 and 18 are believed to obviate this rejection, and its withdrawal is respectfully requested.

**Rejections under 35 U.S.C. § 103**

Claims 1, 4-9, and 24 stand rejected under § 103 as being unpatentable over Rutledge et al. in view of Sathasivan et al. and Shi et al. This rejection is believed to be obviated by the amendments to the claims, and its withdrawal is respectfully requested.

Claim 10 stands rejected under § 103 as being unpatentable over Rutledge et al. in view of Sathasivan et al. and Shi et al., and further in view of Hattori et al. This rejection is believed to be obviated by the amendments to the claims, and its withdrawal is respectfully requested.

Claims 11, 14-20 and 25 stand rejected under § 103 as being unpatentable over Rutledge et al. in view of Hattori et al., Liu et al., and Shi, et al. This rejection is believed to be obviated by the amendments to the claims, and its withdrawal is respectfully requested.

Claim 21 stands rejected under § 103 as being unpatentable over Rutledge et al. in view of Hattori et al., Liu et al. and Shi, et al. as applied to claims 11, 14-20 and 25, and further in view of Sathasivan et al. This rejection is believed to be obviated by the amendments to the claims, and its withdrawal is respectfully requested.

**Requirement for Information**

The Examiner has requested information regarding a May 2001 publication disclosing an agreement between BASF and Saskatchewan Wheat Pool relating to development of herbicide-resistant canola varieties. Specifically, the Examiner inquires whether the herbicide-resistant canola varieties contain the PM1 and PM2 mutations, and if so, does the development of the new varieties include nucleic acid based methods to detect the PM1 and PM2 mutations.

Submitted herewith is a copy of the Declaration Pursuant to 37 C.F.R. 1.132 of Dwight More which was previously submitted in USSN 10/695,089. Mr. More, Global Marketing Manager for CLEARFIELD® oilseeds, including canola, since 1995, states that American Cyanamid Company and BASF Corporation did not publicly disclose or

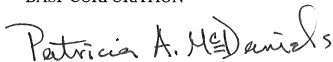
offer for sale any DNA-based assay for the PM1 and PM2 mutations before October 29, 2002, the filing date of USSN 60/421,994 and the priority date of the instant application.

**Double Patenting**

Claims 1, 4-11, 14-21, 24, and 25 stand provisionally rejected for nonstatutory obviousness-type double patenting over claims 1-5 of USSN 10/695,089 in view of Shi, et al. and Liu et al. Applicants acknowledge the rejection and are willing to file a Terminal Disclaimer upon an indication of allowability.

In light of the amendments and arguments set forth above, Applicants submit that all of the rejections contained in the Office Action dated June 20, 2006 have been overcome, and the application is in condition for allowance. Should the Examiner wish to discuss the application further, he is invited to telephone the undersigned. If any additional fees are due with respect to this submission, authorization is hereby given to charge such fees, or to credit any overpayment, to Deposit Account No. 02-1197.

Respectfully submitted,  
BASF CORPORATION

A handwritten signature in dark ink, reading "Patricia A. McDaniels". The signature is fluid and cursive, with the first name "Patricia" and last name "McDaniels" clearly legible.

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